

REMARKS

I. Introduction

This amendment is filed in response to the Office Action dated November 17, 2003 for the above-identified patent application. A one (1) month extension to the time for responding to the Official Action is requested and the appropriate fee is enclosed. Claims 1-35 are currently pending in the present application, of which claims 18-35 have been withdrawn, as being drawn to a non-elected invention. Claims 1-10 have been rejected. Claims 11-17 have been objected to as being dependent upon a rejected base claim. Claim 1 has been amended to incorporate the limitations of dependent claims 2 and 3. Claim 39 has been added. No new matter has been added.

The Examiner has alleged that the claims of the originally filed application are directed to different inventions, and has required restriction to either Group 1, corresponding to claims 1-17, drawn to a method of removing scratches from a planar panel of a translucent or transparent material or Group 2, corresponding to claims 18-38, draw to an apparatus for removing scratches. Further to the telephone conversation of October 21, 2003 applicants elect to prosecute the claims of group 1, claims 1-17, in response to this restriction requirement.

II. The Rejection Under 35 U.S.C. § 112 Should Be Withdrawn

Claim 5 has been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner states that term "the axis of movement" lacks antecedent basis. Applicant has amended claim 5 to replace "the axis of movement" with "the linear path of movement" as recited in base claim 4.

III. The Rejections Under 35 U.S.C. § 102 Should Be Withdrawn

Claims 1-2 and 10 have been rejected under 35 U.S.C. § 102(b) as unpatentable in view of U. S. Patent No. 3,259,480 to Michalik et al. Claims 1-2 and 10 have also been rejected under 35 U.S.C. § 102(b) as unpatentable in view of U. S. Patent No. 3,811,857 to Deeg et al. Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claim 1 has been amended to include the limitations of dependent claims 2 and 3. It is believed that claim 1 is now patentably distinguishable over the cited prior art. Because claim 10 depends from claim 1, this dependent claim is also patentable over the cited prior art. Therefore, in view of the foregoing, reconsideration and withdrawal of the rejections of claims 1-2 and 10 as anticipated by U. S. Patent No. 3,259,480 to Michalik et al. or U. S. Patent No. 3,811,857 to Deeg et al. is respectfully requested.

IV. The Rejection Under 35 U.S.C. § 103 Should Be Withdrawn

Claims 3-7 have been rejected under 35 U.S.C. §103(a) as being unpatentable in view of U. S. Patent No. 3,811,857 to Deeg et al. in view of U.S. Patent No. 3,531,272 to Menear. The Examiner has stated in the Office Action that this rejection is based U.S. Patent No. 3,534,272 and has listed U.S. Patent No. 3,534,272 in the Notice of References Cited. It is respectfully submitted that this was an error and the rejection was based on U.S. Patent No. 3,531,272 to Menear.

It is alleged that Deeg et al. discloses that the prior art uses flame torches but does not disclose how the prior art uses the torches to fire polish glass. The Examiner further alleges that Menear teaches using downwardly projecting burners that are placed in oscillatory motion in a horizontal plane to carry out fire polishing of glass.

Menear, however, discloses the production of a glass-ceramic article formed in a mold and after the article is removed from the mold, *fire polishing the article to remove the mold ridges*. In contrast, the present invention discloses the controlled removal of surface scratches on a top surface of a planar panel. Specifically, claim 1 of the presently claimed invention recites “controllably heating with a substantially linear heat source to produce a relatively thin, substantially linear flame wherein the relatively thin, substantially linear flame is progressively applied across a band of at least a local region of a top surface of the panel so as to melt a relatively thin surface layer of the material.”

To establish obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981 (CCPA 1974). Menear does not disclose nor suggest progressively applying a relatively thin substantially linear flame across a band of the top surface of a panel so as to melt a relatively thin surface layer. Indeed, Menear discloses the removal of mold ridges by projecting burners in *oscillatory* motion and not *progressively across* the top surface of a panel. Moreover, to establish obviousness there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine the teachings. The mere fact that references might be modified is not enough to constitute obviousness unless the prior art also suggests the desirability of the modification. Menear describes internal flame treatment of crystallizable glass to produce a glass-ceramic article. Thus, a person of ordinary skill in the art would not consider the teachings of Menear useful to controllably remove surface scratches from the top surface of a panel. For at least these reasons, the limitation of claim 1 are not taught or suggested by the prior art. As claims 4-7 depend from claim 1, these dependent claim are also patentable for at least the same reasons.

Therefore, in view of the foregoing, reconsideration and withdrawal of the rejection of claims 3-7 as obvious in view of U. S. Patent No. 3,811,857 to Deeg et al. in view of U.S. Patent No. 3,531,272 to Menear is respectfully requested.

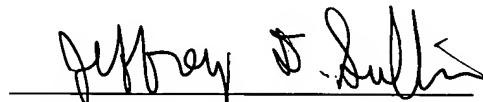
Claims 8 and 9 have been rejected under 35 U.S.C. §103(a) as being unpatentable in view of U. S. Patent No. 3,811,857 to Deeg et al. in view of U.S. Patent No. 3,531,272 to Menear further in view of U.S. Patent No. 3,876,149 to Futerko. As stated above, Menear fails to teach or suggest all the recitations of independent claim 1. Futerko also does not teach or suggest all the recitations of claim 1. As claims 8 and 9 depend from claim 1, these dependent claim are also patentable for at least the same reasons. Therefore, in view of the foregoing, reconsideration and withdrawal of the rejection of claims 8 and 9 as obvious in view of U. S. Patent No. . 3,811,857 to Deeg et al. in view of U.S. Patent No. 3,531,272 to Menear further in view of U.S. Patent No. 3,876,149 to Futerko is respectfully requested.

V. **Conclusion**

It is believed that no additional fee is required in connection with this response. However, the Commissioner is hereby authorized to charge payment of any additional fee or credit any overpayment to Deposit Account No. 02-4377.

In view of the foregoing amendments and remarks, allowance of all the pending claims is respectfully requested.

Respectfully submitted,



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